

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

AUNHK RA AUNHKHOTEP,

Plaintiff,

v.

CAPTAIN BATRICE THOMAS, et al.,

Defendants.

No. 4:24-cv-01551-HEA

OPINION, MEMORANDUM AND ORDER

This matter is before the Court for review pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. For the following reasons, the Court will dismiss without prejudice Defendant Bruce Borders pursuant to Rule 4(m).

Plaintiff filed this action on November 18, 2024. On January 29, 2025, after initial review, the Court directed the Clerk to serve process on the complaint. The Clerk attempted to serve process upon Borders pursuant to the Memorandum of Understanding the Court maintains with the St. Louis City Counselor's office. However, counsel for St. Louis City declined to waive service as to Borders because he was no longer employed there. Counsel subsequently provided the Court with Borders's last known address, and the Court directed the Clerk to effectuate service of process there. On April 15, 2025, the United States Marshals Service returned an unexecuted proof of service for Borders. The Marshals Service stated that Borders did not live at the address provided by the City Counselor's office.

After attempting service twice without success, on April 23, 2025, the Court issued an order informing Plaintiff that more than 90 days had elapsed since he had filed his Complaint and Borders had not been served. The Court directed Plaintiff to provide any additional information

that might allow Borders to be served, or advise the Court of good cause for his inability to do so. *See* ECF No. 20; Fed. R. Civ. P. 4(m). The Court stated that Plaintiff's failure to timely respond to the Order would result in the dismissal of Borders without prejudice. Plaintiff has not responded to the Order, and the time for doing so has passed.

This action will be dismissed without prejudice as to Defendant Borders, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. A plaintiff bears the burden of providing proper service information. *See Lee v. Armontrout*, 991 F.2d 487, 489 (8th Cir. 1993). The information provided to the Court shows that the U.S. Marshals made reasonable efforts to serve Borders twice. Rule 4(m) requires this Court to dismiss an action without prejudice if the Complaint is not served within 90 days of its filing. *See* Fed. R. Civ. P. 4(m). More than 90 days have passed since Plaintiff filed the complaint and, notwithstanding reasonable efforts to locate Borders, he cannot be found and summonses have been returned unexecuted. Based on the circumstances of this case, further extension would be futile.

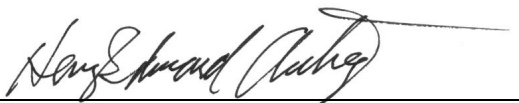
Accordingly,

IT IS HEREBY ORDERED that this action is dismissed, without prejudice, as to Defendant Bruce Borders.

IT IS HEREBY CERTIFIED that an appeal from this partial dismissal would not be taken in good faith.

An Order of Partial Dismissal will accompany this Memorandum and Order.

Dated this 21st day of May, 2025.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE